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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 1422/98

HON'BLE SHRI R.K. AHOOJA, MEMBER(A)

New Delhi, this the 13th day of May, 1999

Shri Balkishan
S/o Shri Dev Raj
R/o Dayabasti Railway Park
C/o Malihut-14
Delhi 110 035

.....Applicant

(By Advocate: Shri Kishore Kumar Patel)

Versus

1. Union of India
through the General manager
Northern Railway
Baroda House
New Delhi

2. Divisional Railway Manager
Northern Railway
State Entry Road
New Delhi

..... Respondents

(By Advocate: Shri B.S. Jain)

O R D E R

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The applicant claims that he had worked under I.W.D., Northern Railway, D.R.M. Office, New Delhi as a casual labour during the period from 6.8.1982 to 4.10.1982 and again from 6.10.1982 to 4.12.1982 for about 120 days. Thereafter he approached the respondents for reengagement. But both juniors and outsiders had been engaged, his case was not considered. He has, therefore, come before this Tribunal seeking a direction to the respondents to reengage him and to place his name on the Live Casual Labour Register.

2. The respondents have not denied the applicant's engagement but stated that there was a ban on engagement of casual labour during the relevant period. The applicant was engaged without the prior permission of the General Manager, which was not obtained in his case,

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the engagement of the applicant was ab initio void and no benefit can accrue to him on that account. They also state that the Railway circular regarding preparation of the Live Casual Labour Register was meant for only such casual labour as had been engaged prior to 1.1.81 and was disengaged after 1.1.81 for want of further work. Since the applicant was not working as a casual labour on 1.1.81 he cannot avail of the benefit of the scheme.

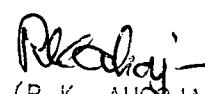
3. The respondents have also raised the plea of limitation as the applicant having been disengaged in 1982, admittedly filed representation in 1997 and has come before the Tribunal in 1998.

4. The plea taken by the respondents that only those who had been engaged prior to 1.1.81 and were discharged after 1.1.81 are entitled to have their names continued in the Live Casual Labour Register has already been rejected in a number of judgments of this Tribunal. The second plea that the bar of limitation operates in the case of the applicant, is also not valid as the responsibility for maintaining the Live Casual Labour Register is that of the Railways. The relief to be afforded to the applicant has, however, to be determined in terms of the time frame in which he has approached this Tribunal. Shri B.S. Jain, learned counsel for the respondents, however, argued that under Rule 179(xiii) of Indian Railway Establishment Manual, Vol.I, only those persons who had worked for a minimum of six months, i.e. 180 days, can have their names included in the Live Casual Labour Register. He submits that even if no such

stipulation has been made in the circular of the Railways dated 20.8.97, any such instructions cannot overrule the provisions of a substantive rule.

5. The learned counsel for applicant has sought to argue that the requirement, if any, of 120 days and the applicant had approximately rendered service for that period. He pointed out that Rule 179(xiii)(c) of IRE Manual also provides that such casual labour who have worked for 120 days require to be given temporary status and they should be considered for regular employment. Thus, the applicant having been deemed to have acquired temporary status could not be discharged without one month's notice. The learned counsel's argument was that if the respondents' rely on one part of IRE Manual and they cannot look at only one part, i.e. requirement of 180 days engagement for inclusion in the Live Casual Labour Register and ignore the other part i.e. grant of temporary status to those who had been engaged for more than 120 days.

6. I am unable to agree with the learned counsel for the applicant. Firstly, the applicant might have rendered approximately 120 days but he has not rendered more than 120 days engagement. I also agree with the learned counsel for the respondents that the instructions contained in the circulars which are purely administrative instructions ~~can't~~ ^{not} nullify the substantive provisions of the Indian Railway Establishment Manual. Therefore, as the applicant has not rendered 180 days engagement, he is not entitled to have his name on the Live Casual Labour Register. O.A. is dismissed.


(R.K. AHUJA)
MEMBER(A)